

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

DS ADVANCED ENTERPRISES,
LTD.,

A CORPORATION,

Plaintiff,

v.

LEDVANCE LLC,

A CORPORATION,

Defendant.

Case No.: 1:24-cv-11155-JEK

Honorable Judge Julia E. Kobick

CORRECTED JOINT STATEMENT OF THE PARTIES

This proposed schedule is intended to provide a reasonable timetable for discovery and motion practice in order to help ensure a fair and just resolution of this matter without undue expense or delay.

I. PROPOSED JOINT DISCOVERY PLAN

Case Complexity:

Defendant contends this case is complex for purposes of Rule 16.1(e). Defendant has raised twelve affirmative defenses, counterclaims of patent invalidity, and a counterclaim for a declaratory judgment of non-infringement of the subject patent with respect to additional Ledvance products. This litigation will be impacted by the results of appellate litigation still pending before the Court of Appeals for the Federal Circuit, which may result in the continuation of litigation

1 in the Southern District of California. The underlying case inherently requires
2 complex discovery, the testimony of experts in the fields of the invention and in
3 patent law, and the construction of a number of claim terms by Markman hearing.
4 Neither lead counsel has participated in a claim construction hearing under the
5 local rules in Massachusetts. This case, still in its infancy, has already produced a
6 Pro Hac Vice dispute and a failed first attempt at the Joint Statement of the Parties.
7 Plaintiff, a foreign entity, is positing the need for information from multiple
8 individuals who are not affiliated with either party and are not US residents.
9 Plaintiff is speculating about adding more parties and more patents to the dispute.
10 Moreover, the district court for the Northern District of Georgia determined a
11 related case involving the patent in suit to be sufficiently complex to warrant the
12 appointment of a special master in the proceedings. *See DS Advanced Enterprises*
13 *v. Cooper Lighting, LLC.*, Civil Action No. 1:24-cv-05643-TRJ (D. Georg. 2025),
14 Document 126. Beyond this, both parties are seeking a determination that the case
15 is exceptional under 35 U.S.C. § 285, as well as an award of attorneys' fees and
16 costs incurred in this action. For all of these reasons, Defendant expects that this
17 dispute would benefit from judicial oversight accorded complex litigation.

18 Plaintiff contends that this Case is not complex with respect to most other
19 civil litigations, and especially with respect to other patent cases. A single patent
20 with 5 claims is being asserted, and a household product is being accused of
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1 infringement. Patent cases are not inherently complex, nor do they inherently
2 require expert testimony. Plaintiff has identified multiple persons in their initial
3 disclosures, as required per Fed. R. Civ. P. 26(a)(1)(A)(i). That is a list of persons
4 who may have discoverable information, not a list of persons Plaintiff is seeking to
5 depose. That list does not make this case complex. Furthermore, Defendant's 12
6 affirmative defenses do not make this complex, especially because most of them
7 are not actually proper affirmative defenses per Fed. R. Civ. P. 8. A special master
8 was never appointed in the N.D. Ga. case referenced by Ledvance. A special
9 master was never appointed in the S.D. Cal. case, now on appeal at the Federal
10 Circuit Court of Appeals. Plaintiff's lead counsel is a solo practitioner and helped
11 settle the N.D. Ga. case before the *Markman* hearing. Plaintiff's local counsel is
12 also a solo practitioner who has litigated many patent infringement cases through
13 trial as a solo practitioner. If Defendant's attorneys intend to make this case
14 complex, they alone should shoulder that burden.

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16 Pursuant to Local Rule 16.1(D)(1)(b), the Parties agree to the following
17 discovery plan and schedule:

18 **1. Initial Disclosures.** Initial disclosures required by Fed. R. Civ. P. 26(a)(1)
19 and by this Court's Notice of Scheduling Conference must be completed by
20 September 30, 2025.

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1 **2. Amendments to Pleadings.** Except for good cause shown, no motions
2 seeking leave to add new parties or to amend the pleadings to assert new claims or
3 defenses may be filed after March 27, 2026.

4 **3. Settlement.**

5 a. Defendant: DS Advanced Enterprises has not submitted a written
6 settlement proposal to Ledvance pursuant to L. R. 16.1(c) as of the
7 filing of this Joint Statement.

8 Plaintiff: On August 19, 2025, DSAE's counsel emailed Ledvance's
9 counsel regarding scheduling a settlement conference for the
10 following week. Later that day, Ledvance's counsel indicated they
11 would let DSAE's counsel know if Ledvance is interested in
12 participating in a settlement conference. The Parties agreed to, and
13 participated in a settlement conference thereafter.

14 Before the conference, on August 20, 2025, DSAE's counsel
15 requested Ledvance disclose a high-level summary of sales of the
16 Accused Products for determining a settlement amount. Ledvance's
17 counsel indicated Ledvance would *not* share any sales data ahead of
18 the settlement conference. Nonetheless, DSAE's President, David
19 Sherman, and Ledvance's Vice President, Andrew Martin,

1 participated in a brief settlement conference on September 12, 2025.

2 No settlement was reached.

- 3 b. The Parties and their counsel have conferred in accordance with L. R.
4 16.1(d)(3)(A) and L. R. 16.1(d)(3)(B). The Parties remain open to the
5 use of alternative dispute resolution. Certifications signed by counsel
6 and an authorized representative of each party were filed separately
7 under Dkts. 117 and 118.

8 **4. Fact Discovery – Interim Deadlines.**

- 9 a. All requests for production of documents and interrogatories must be
10 served 30 days prior to close of fact discovery.

- 11 b. All requests for admission must be served 30 days prior to the close of
12 fact discovery.

- 13 c. All depositions, other than expert depositions, must be completed by the
14 close of fact discovery.

- 15 d. Defendant: Defendant requests bifurcating discovery and conducting
16 discovery relating to allegedly infringing acts and damages after the
17 *Markman* order. As captured within the Order on the Motion to Dismiss,
18 Defendant has identified language that supports a decision of non-
19 infringement that the Court determined should not be considered until after
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1 claim construction. Moving first toward claim construction is the most
2 efficient path toward resolving this case.

3 Plaintiff: Plaintiff contends that this case is not complex and thus discovery
4 will not be complex. Claim construction will come first because that is
5 required by the Local Rules, regardless of whether or not discovery is
6 bifurcated. Plaintiff firmly takes issue with discovery being phased or
7 bifurcated, as this would limit Plaintiff's ability to build their case against all
8 12 of Defendant's affirmative defenses.

9 **5. Obligation to Supplement.** Supplemental disclosures under Fed. R. Civ.
10 P. 26(e) shall be made promptly after the receipt of information by the party or
11 counsel and, in any event, no later than the completion of fact discovery, unless
12 good reason can be shown for why such information was not available.

13 **6. Final Fact Discovery Deadline.** All discovery, other than expert
14 discovery, must be completed by December 23, 2026 or 60 days after the *Markman*
15 order, whichever comes later.

16 **7. Status Conference.** A status conference will be held on February 5, 2027
17 at 9:30 a.m., or other dates subject to the Court's convenience. By February 3,
18 2027, the parties shall file a status report indicating the current status of the case,
19 including whether the parties intend to seek expert discovery and/or intend to file
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any dispositive motions, whether the parties are interested in mediation, as well as any other matter relevant to the progress of the case.

8. Preliminary Disclosures.

a. Patentee's Preliminary Patent-Related Disclosures: Patentee shall complete disclosures required by L. R. 16.6(d)(1) by **October 14, 2025.**

b. Conference Concerning Patentee's Preliminary Patent Disclosures:
The Parties shall meet and confer pursuant to L. R. 16.6(d)(2) by
October 28, 2025.

c. Accused Infringer's Preliminary Production: Accused infringer shall
complete the disclosure required by L. R. 16.6(d)(4) by **November**
18, 2025.

9. Claim Construction Proceedings.

a. Exchange of Proposed Terms and Proposed Constructions: The Parties shall exchange terms and constructions in accordance with L. R. 16.6(e)(1)(A) on **December 9, 2025.**

b. Meet and Confer Regarding Exchanged Terms: The Parties shall meet and confer in accordance with L. R. 16.6(e)(1)(B) on **December 16, 2025.**

- c. Joint Disputed Claim Terms Chart: The Parties shall submit a joint disputed claim terms chart no later than **January 6, 2025**.¹
- d. Opening Claim Construction Briefs and Expert Declarations: The Parties shall submit opening claim construction briefs and supporting expert declarations on **January 27, 2026**.
- e. Claim Construction Expert Depositions: The Parties shall conduct expert claim construction depositions by **February 17, 2026**.
- f. Responsive Claim Construction Briefs: The Parties shall submit responsive claim construction briefs by **March 10, 2026**.
- g. Claim Construction Tutorial: The Parties shall follow Local Rule 16.6(e)(6), and shall exchange and submit a claim construction tutorial if the Court so requests, 14 days prior to the *Markman* hearing.
- h. Markman Hearing: The *Markman* hearing will be held on **April 28, 2026 at 9:30 a.m., or other dates subject to the Court's convenience**, in Courtroom 3 on the 3rd floor.

10. Expert Discovery.

¹ This proposed date is beyond the 14-day deadline provided under L. R. 16.6(e)(1)(D). The Parties have identified this date as sufficient to accommodate around the holidays, and jointly request the Court extend the deadline accordingly.

If the Court elects not to extend the deadline, the Parties would propose the alternative schedule attached as Exhibit A herein.

1 a. Plaintiff(s)' trial experts must be designated, and the information
2 contemplated by Fed. R. Civ. P. 26(a)(2) must be disclosed, by January 5,
3 2027.

4 b. Plaintiff(s)' trial experts must be deposed by February 6, 2027.

5 c. Defendant(s)' trial experts must be designated by, and the information
6 contemplated by Fed. R. Civ. P. 26(a)(2) must be disclosed, by February 6,
7 2027.

8 d. Defendant(s)' trial experts must be deposed by March 6, 2027.

9 e. Expert discovery, including expert depositions, shall be completed within
10 90 days of the close of fact discovery.

11 **11. Summary Judgment Motions.**

12 a. Motions for summary judgment must be filed no later than 30 days
13 after the close of expert discovery.

14 b. Plaintiff: Oppositions to summary judgment motions must be filed
15 within 28 days after service of the motion.

16 Defendant: Oppositions to summary judgment motions must be filed
17 within 21 days after service of the motion. This time limit is statutory,
18 and Defendant sees no reason to alter it.

19 c. Parties will communicate intentions to file Motions for Summary
20 Judgment in advance of the deadline, and in furtherance of having
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1 overlapping briefing schedules (should both Parties anticipate filing
2 for Summary Judgment).

3 **12. Initial and Pretrial Conferences.** The initial pretrial conference will be
4 scheduled at a later point in the proceedings. The parties must prepare and submit a
5 pretrial memorandum in accordance with Local Rule 16.5(d) five business days
6 prior to the date of the conference, except that the parties need not include matters
7 required by Local Rule 16.5(d)(2) or (3). The trial date will normally be set at the
8 initial pretrial conference. A final pretrial conference will be scheduled at the time
9 the trial date is set. The court may also schedule interim pretrial conferences in
10 appropriate cases.

11 **13. Joint Statements.**

12 Plaintiff's Statement: DS Advanced Enterprises, Ltd. contends that
13 Ledvance LLC is infringing literally or by equivalents, each and every claim of
14 DSAE's US Patent 11,054,118 ("118 Patent"), per 35 U.S.C. § 271. DSAE further
15 contends that the '118 Patent is presumed valid per 35 U.S. Code § 282, and that
16 the references cited by Ledvance do not anticipate or render obvious any claims of
17 the '118 Patent. Additionally, Ledvance's assertions of indefiniteness are
18 unfounded. The Claims of the '118 Patent are definite, as recognized by S.D. Cal.
19 and the USPTO. DSAE is seeking disgorgement of Ledvance's profits for the
20 Accused Products, a royalty on gross sales of the Accused Products, and enhanced
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1 damages and recovery of attorney's fees per 35 U.S.C. § 285, and in view of
2 Ledvance's ongoing and blatant, willful infringement.

3 Defendant's Statement: Ledvance LLC contends that it is not infringing any
4 claims of US Patent 11,054,118. The Ledvance Accused Products do not practice
5 every element of any claim of US Patent 11,054,118, for at least the reasons that
6 the Ledvance Accused Products do not practice a twist connector to attach the
7 output wires of the junction box to the metal housing, a plurality of connection
8 wirings and retrofit clip to make a friction fit inside the recessed lighting fixture
9 housing, or a plurality of new construction clips with a plurality of retrofit clips
10 adaptable to attach with a body of the LED light fixture by screwing them into a
11 plurality of screw holes.

12 Ledvance LLC also contends that US Patent 11,054,118 is invalid under 35
13 U.S.C. §§102 and 103. Prior art references disclosing all the limitations of US
14 Patent 11,054,118 render the claims anticipated or obvious. Additionally,
15 Ledvance contends the claims of US Patent 11,054,118 are invalid under 35 U.S.C.
16 §112 for written description, enablement, and definiteness on the basis of at least
17 eleven different grounds. For instance, the claim term "new construction clips" is
18 indefinite for failing to inform those skilled in the art about the scope of the
19 claimed invention. In another example, the concurrent requirement of claim
20 elements "new construction clips" and "retrofit" clips is not enabled within the
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1 specification. Another example of indefiniteness is the requirement “a twist
2 connector (118) to attach the output wires of the junction box (116) to the metal
3 housing (108)”, which is nonsensical at least because it would render the disclosed
4 device inoperative. A further example of indefiniteness is the conditional
5 limitation “wherein the new construction clips (104) are attached to the connecting
6 posts (106) if the recessed lighting fixture housing is not present” which
7 contradicts or undoes other elements of the claims. Ledvance also asserts
8 additional grounds for invalidity under § 112 on the basis of definiteness, failure to
9 meet the written description requirement, or failure to meet the enablement
10 requirement.

11 Ledvance LLC is seeking a judgment that US Patent 11,054,118 is invalid,
12 and a judgment that Ledvance LLC has not and does not infringe any valid claim
13 of US Patent 11,054,118. Ledvance LLC is also seeking a determination that this
14 case is exceptional pursuant to 35 U.S.C. §285, along with an award of costs and
15 attorney fees.

16 14. Magistrate Consent.

17 The Parties do not consent to reassignment of this case to a magistrate.
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19 Procedural Provisions

20 1. Extension of Deadlines.

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1 All requests to extend or modify deadlines must be made by motion and must state:

2 (1) the original date(s);

3 (2) the number of previous requests for adjournment or extension;

4 (3) whether these previous requests were granted or denied;

5 (4) the reasons for the requested extension; and

6 (5) whether the opposing party consents and, if not, the reasons given for refusing

7 to consent. The motion shall also contain a summary of the discovery, if any, that

8 remains to be taken, and a specific date when the requesting party expects to

9 complete the additional discovery, join other parties, amend the pleadings, or file a

10 motion. Motions to extend or modify deadlines will be granted only for good cause

11 shown.

12 Absent an emergency, any request for an extension or adjournment shall be made

13 at least forty-eight hours prior to the deadline or scheduled appearance.

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15 **2. Motions to Compel or Prevent Discovery.**

16 Except for good cause shown, motions to compel discovery, motions for protective

17 orders, motions to quash, motions to strike discovery responses, and similar

18 motions must be filed no later than the close of fact discovery or the close of expert

19 discovery, whichever deadline is relevant. If additional discovery is compelled by

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1 the Court after the relevant deadline has passed, the Court may enter such
2 additional orders relating to discovery as may be appropriate.

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4 **3. Reply Memoranda.** Parties need not seek leave of court to file a reply
5 memorandum in response to an opposition to any motion, provided that such a
6 reply memorandum does not exceed eight pages, double-spaced, and is filed within
7 seven days (excluding intermediate Saturdays, Sundays, and legal holidays) after
8 service of the opposition memorandum. Parties may otherwise file reply or
9 surreply memoranda only with leave of court. When such leave is sought, the
10 moving party may file a proposed reply or surreply memorandum with the motion
11 for leave.

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13 **4. Status Conferences.** The Court has scheduled a status conference after (or close
14 to) the close of fact discovery for case management purposes. Any party who
15 reasonably believes that a status conference will assist in the management or
16 resolution of the case may request one from the Court upon reasonable notice to
17 opposing counsel.

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19 **5. Additional Conferences.** Upon request of counsel, or at the Court's own
20 initiative, additional case-management or status conferences may be scheduled.

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1 Parties may request telephonic conferences where appropriate to avoid undue
2 inconvenience or expense.

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4 **6. Early Resolution of Issues.** The Court recognizes that, in some cases,
5 resolution of one or more preliminary issues may remove a significant impediment
6 to settlement or otherwise expedite resolution of the case. Counsel are encouraged
7 to identify any such issues and to make appropriate motions at an early stage in the
8 litigation.

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10 **7. Pretrial Conference.** Lead trial counsels are required to attend any pretrial
11 conference.

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13 **8. Agenda for Scheduling Conference:**

- 14 a. Address any scheduling issues identified by the District Court.
- 15 b. Discuss points of disagreement in Joint Statement, including at least
16 whether case is complex and whether to phase discovery.
- 17 c. Discuss Plaintiff's motion to join retailer defendant, Menard's, for selling
18 same Accused Products.
- 19 d. Discuss asserting one additional patent against same Accused Products.
- 20 e. Plaintiff's objection to Defendant's Notice of Errata.
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2 Dated: September 19, 2025

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4 DS ADVANCED ENTERPRISES, LTD.,
5 *Plaintiff*

6 By its attorney,

7 /s/ Patrick Cummins,

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15 /s/ Todd A. Sullivan

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**UNITED STATES DISTRICT COURT
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Honorable Judge Julia E. Kobick

CERTIFICATE OF SERVICE

I hereby certify that the following documents filed through the CM/ECF system will be sent electronically to the registered participants as identified on the NEF (NEF) and paper copies will be sent to those indicated as non-registered participants on September 19, 2025.

CORRECTED JOINT STATEMENT OF THE PARTIES

Dated: September 19, 2025

1 DS ADVANCED ENTERPRISES, LTD.,

2 *Plaintiff*

3 By its attorney,

4 /s/ Patrick Cummins,

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